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Final Environmental Impact Report Comments
Vesting Tentative Tract Map No. 61553 - SCH No. 2005111054
22255 and 22241 Mulholland Drive - ENV-2005-2301-EIR

Dear Mr. Somers:

The Final Environmental Impact Report (FEIR) fails to disclose in any manner that the subject 6.19-acre site provides a unique visual and ecological resource along the Mulholland Scenic Parkway. The FEIR also is deficient for not analyzing how the habitat on the subject property, in combination with the Department of Water and Power's Girard Reservoir property, creates a unique, core-habitat-connected peninsula of habitat readily available to the City's residences and public transportation users on Mulholland Highway. More specifically the FEIR does not address how the proposed project and its relevant development alternative, may have an adverse effect on the ecological capacity of the City-owned open space. For example will the loss of habitat and the combined direct and indirect adverse effects of 37 homes reduce the capability for raptors or other protected bird species from using the Girard Reservoir site to forage, roost and nest? The FEIR is deficient for not addressing these questions and recommending mitigation measures as necessary.

In contrast the FEIR makes every effort to downplay the important and irreplaceable public resources of the Mulholland Scenic Parkway and the greater Girard Reservoir habitat block. No development has occurred in the last ten years since sheep grazed on the subject property. The FEIR states, "... the combined effect of Mitigation Measures B-1 through B-18, as well as Project Enhancements B-19 through B-25, reduces project impacts to the project site's visual character to a less-than-significant level." The mere statement that a combination of March 2007 DEIR mitigation measures (no new FEIR measures) will now reduce visual impacts to a less than significant level is insufficient. The FEIR will remain deficient until it specifically shows or addresses how each measure will reduce visual impacts.

More specifically, just because: 1) the Mulholland Design Review Board will provide a recommendation on a landscape plan, 2) because 14 hypothetical vegetation cross-sections are included in the FEIR, and 3) because a vague proposed master landscape plan is provided, those partially disparate elements as a group do not automatically get a project off the hook for conclusively demonstrating how those elements will adequately screen the project within a reasonable time period. In addition, the City does not have, and is likely never to have, the staff resources to ensure that the project remains adequately screened by native vegetation from Mulholland Drive for the life of the project. Hence, the sustainability of the combined FEIR visual impact mitigation measures must also be considered when weighing potential impact significance. The FEIR is deficient in providing adequate mitigation to reduce visual impacts to a level less than significant.

The only way to adequately and permanently protect the Mulholland Drive viewshed is to alter the project to avoid impacts. No reasonable person could not concur that the removal or modification of specific proposed housing units would substantially reduce the proposed project's visual impacts from Mulholland Drive. To this point, the FEIR also has not addressed adverse lighting impacts along the scenic parkway. For example will the exterior lights and interior lights of the proposed houses be visible for over a dozen years until proposed landscaping reaches specific heights and widths? What if the City is later petitioned to put in street lighting, both within and exterior of the tract boundary, at a later date? Are all of the lighting provisions firmly entrenched as CEQA FEIR mitigation measures that cannot by law be changed by the City?

The FEIR response to the Conservancy's March 2007 letter states that an EIR need not consider every alternative to a project. Any reasonable person would agree with that statement, but most reasonable people would agree that an EIR should provide decision makers with an alternative project footprint that undoubtedly significantly reduces and avoids numerous both substantial and significant adverse impacts. Why is the FEIR response to comments so oblique about addressing this issue, and why did the FEIR not include a reduced footprint development alternative as request by the Conservancy and other commentors? The FEIR not only does not include a reasonable range of project development alternatives, it contains none. Alternative Two has, for all intents and purposes, the same physical disturbance perimeter as the proposed project. We also challenge whether Alternative Two is feasible as required per CEQA because of the numerous conflicts with the Mulholland Specific Plan ordinance.

The FEIR alternatives analysis shall remain deficient until an alternative-such as that suggested in the Conservancy's March 2007 letter--is analyzed and made available to decision makers in a circulated CEQA document. This Conservancy recommended alternative reduces the 37-unit project by only five homes and results in less infrastructure cost. The "Conservancy" alternative clearly demonstrates that an undisputably less damaging alternative with ample units must be considered in this CEQA process.

The response to comments on Conservancy comment No. 11-3 basically says that the understory of project site's oak woodlands are disturbed and warrant no additional protection. We disagree and contend that understory composition and health are integral to the value of the woodland and to the sustainability of the trees. We appreciate the addition of conditions (D-7) that were added (response to Conservancy comment No. 11-6) to prohibit open space lighting, non-native plants, hardscape, domestic animals, animal blocking fencing, and other deleterious uses. The issue is whether a homeowners association is the appropriate agency to adequately enforce CEQA mitigation measures. In this case, where the property will abut future public parkland and currently abuts public streets, the ability for an HOA to limit its members for potential deleterious uses, and have the fortitude to enforce transgressions by non-HOA members, a public agency must have an interest in the land. A conservation easement is the bare minimum interest. The proposed setting aside of permanent open space, in this case without a conservation easement, is a deficient mitigation measure because it cannot be adequately enforced. As suggested in Conservancy's DEIR comment letter, both the City and the Mountains Recreation and Conservation Authority (MRCA) should be included as conservation easement holders in provide adequate oversight and enforcement. Such conservation easements must be transferred in a form acceptable to the City and the MRCA prior both to map recordation and the issuance of any permits for grading, demolition, or public improvements via A or B permits.

An essential part of Conservancy's proposed 32-unit less damaging alternative is that every square foot of the open space lots must be in a conservation easement that prohibits any lighting, non-native plants, hardscape, domestic animals, animal movement blocking fencing, and any other deleterious uses. The only way the public can be assured that the land will remain in this state forever is for both the City and the Mountains Recreation and Conservation Authority (MRCA) to receive these conservation easements. The easement(s) ideally would allow restoration and enhancement of native habitat.

We are confident that the MRCA will soon operate a public natural area at the adjacent Girard Reservoir site. We disagree with the FEIR conclusions that consider of this future use is to speculative to address in the document. The FEIR must at least address how the proposed project and it alternatives might affect a public natural area accessible to school groups and the disabled. There is an appropriate level of analysis between full analysis and complete dismissal. The FEIR is deficient for its complete dismissal of this potential adjoining public land use. We urge the City to take all necessary measures to ensure that the park site provides the highest quality experience possible to the public.

The proposed project provides scant public benefit at best and would result in significant visual and ecological impacts. We discourage the City from certifying a FEIR that is clearly deficient and from granting any approvals that include discretionary retaining walls without

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much greater concessions to eliminate units from the applicant. The Conservancy is opposed to the proposed project and would not have any opposition if the Conservancy's 32 unit alternative is adopted exactly as proposed.

Please direct any questions and all future documents to Paul Edelman of our staff at (310) 589-3200 ext. 128 and at address shown on our letterhead.

Sincerely,

ELIZABETH A. CHEADLE
Chairperson